

AMENDED IN ASSEMBLY AUGUST 31, 2007

SENATE BILL

No. 14

Introduced by Senator Negrete McLeod

(Coauthors: Assembly Members DeVore, Dymally, and Strickland)

December 4, 2006

An act to amend Sections 20028, 20069, 20281.5, 20303, 20370, 20371, 20380, 20894, 20901, 20963, 20997, 21076, 21077, 22760, and 22772 of, and to add Sections 20039.5, 20326, 20327, 20380.5, 20772.5, 20772.6, 20966.5, 21029.5, 21052.5, 21070.7, 21117.5, and 31649.6 to, the Government Code, and to amend Sections 215, 228, and 256 of the Military and Veterans Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 14, as amended, Negrete McLeod. Retirement: military service.

(1) Existing law provides that specified state military personnel become state members of the Public Employees' Retirement System when they are placed on full-time active duty. Existing law generally excludes part-time employees from membership in the retirement system, subject to certain exceptions. Existing law authorizes state and school members of the retirement system to receive up to 4 years of service credit for prior military service, if those members pay certain additional contributions to the retirement system. Member contributions to the retirement system are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would provide that officers, warrant officers, and enlisted personnel of the California National Guard shall, upon written election filed with the Board of Administration of the Public Employees' Retirement System, become state members of the retirement system,

and be referred to as National Guard members. The bill would provide that employer contributions to the retirement fund for these members would be paid by the member. The bill would also authorize those members to receive service credit for their service in the Armed Forces of the United States and prior service in the California National Guard, as specified, if those members pay certain additional contributions to the retirement system. The bill would require the Military Department, if payment is requested by the Board of Administration of the Public Employees' Retirement System, to reimburse the retirement system for the administrative and program costs of administering the membership and service credit of National Guard members.

By increasing member contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(2) Existing law prohibits a member of the Public Employees' Retirement System from receiving credit for the same service in 2 public retirement systems.

This bill would make that prohibition inapplicable to National Guard members, as specified.

(3) Under existing law, if a member retires from both the Public Employees' Retirement System and a reciprocal retirement system, the member's highest final compensation from either system may be used to calculate his or her retirement allowance if the member retires from both systems concurrently.

This bill would prohibit a National Guard member from using his or her final compensation under a reciprocal retirement system to calculate a retirement benefit for the service of that National Guard member with the California National Guard.

(4) Under existing law, state employees who become members of the Public Employees' Retirement System after a certain date do not immediately make contributions nor receive service credit for their service during their first 24 months of employment.

This bill would permit a National Guard member to make contributions and receive service credit in the system upon entry into service with the California National Guard.

(5) Existing law permits the Governor, if it is in the best interest of the state to encourage state employees to retire resulting in cost savings to state agencies, to authorize that a member of the Public Employees' Retirement System receive an additional 2 years of service credit, as specified.

This bill would prohibit an employee from using his or her service in the California National Guard or service as a National Guard member to qualify for that additional 2 years of service credit.

(6) Existing law permits a member of the Public Employees' Retirement System, if he or she retires within 4 months of separation of employment, to receive service credit in the retirement system for any unused sick leave he or she accumulated with his or her employer, as specified.

This bill would prohibit a National Guard member from receiving service credit in the Public Employees' Retirement System for any unused sick leave earned as a National Guard member.

(7) The Public Employees' Medical and Hospital Care Act authorizes the Board of Administration of the Public Employees' Retirement System to contract with carriers for health benefit plans and major medical plans for employees and annuitants, as specified, and approve other specified plans.

This bill would prohibit a National Guard member from receiving health care benefits under the Public Employees' Medical and Hospital Care Act based on his or her service with the California National Guard.

(8) The County Employees Retirement Law, upon approval by a county board of supervisors, authorizes a member of a county or district retirement system to receive service credit for time during which he or she was absent from county service and serving in the Armed Forces if, among other things, the military service is not the basis for present or future military retirement pay.

This bill would authorize that member to receive that service credit under specified conditions without regard to whether his or her military service is the basis for present or future military retirement pay.

(9) Existing law provides that members of the California National Guard, California Air National Guard, and California National Guard Reserve receive credit for time served on full-time active duty in the Armed Forces of the United States or any reserve component as if that service had been rendered in the state forces. That credit applies to, among other things, computing length of state service for military retirement with pay.

This bill would additionally permit those members to receive credit for part-time duty or service.

(10) Existing law authorizes specified officers and enlisted members on active duty with the Adjutant General who are not members of the Public Employees' Retirement System to receive military retirement

with pay, as specified, based on a computation of state service. However, inactive service in a reserve component of the Armed Forces of the United States is excluded from that computation.

This bill would eliminate that exclusion.

(11) The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The California National Guard is a military organization in
4 California that serves essential public safety purposes and routinely
5 supports local authorities in protecting the lives and property of
6 the people of the state during periods of natural disaster and civil
7 disturbance, and provides homeland security.

8 (b) The California National Guard has full-time civil support
9 teams whose primary purpose is to engage in public safety actions
10 by responding to actual or suspected incidents of terrorism in the
11 state. The civil support teams work closely with law enforcement,
12 fire, medical, and other emergency first responders to assist and
13 advise incident commanders, to train and conduct exercises in the
14 local communities, and to support public safety by ensuring
15 adequate and efficient responses to emergencies. The civil support
16 teams provide state-of-the-art public safety equipment and highly
17 specialized resources and are the lead element in the California
18 National Guard's response cycle for all hazardous incidents and
19 emergencies.

20 (c) It is the intent of the Legislature to further the public
21 purposes service by the California National Guard by providing
22 members of this organization with pension benefits provided to
23 other state miscellaneous members.

24 SEC. 2. Section 20028 of the Government Code is amended
25 to read:

26 20028. "Employee" means all of the following:

27 (a) Any person in the employ of the state, a county
28 superintendent of schools, or the university whose compensation,
29 or at least that portion of his or her compensation that is provided
30 by the state, a county superintendent of schools, or the university,

1 is paid out of funds directly controlled by the state, a county
2 superintendent of schools, or the university, excluding all other
3 political subdivisions, municipal, public and quasi-public
4 corporations. “Funds directly controlled by the state” includes
5 funds deposited in and disbursed from the State Treasury in
6 payment of compensation, regardless of their source.

7 (b) Any person in the employ of any contracting agency.

8 (c) City employees who prior to the effective date of the contract
9 with the hospital are assigned to a hospital that became a
10 contracting agency because of subdivision (p) of Section 20057
11 shall be deemed hospital employees from and after the effective
12 date of the contract with the hospital for retirement purposes. City
13 employees who after the effective date of the contract with the
14 hospital become employed by the hospital, shall be considered as
15 new employees of the hospital for retirement purposes.

16 (d) Any person in the employ of a school employer.

17 (e) Public health department or district employees who were
18 employees prior to the date of assumption of the contract by the
19 governing body of a county of the 15th class shall be deemed
20 public health department or district employees from and after the
21 effective date of assumption of the contract for retirement purposes.
22 Employees who after the effective date of assumption of the
23 contract become employed by the public health department or
24 district shall be considered as new employees for retirement
25 purposes.

26 (f) Officers, warrant officers, and enlisted personnel of the
27 California National Guard not otherwise described in subdivision
28 (a) rendering service authorized by Title 32 of the United States
29 Code.

30 SEC. 3. Section 20039.5 is added to the Government Code, to
31 read:

32 20039.5. Notwithstanding Article 5 (commencing with Section
33 20350) of Chapter 3, or any other provision of this part, “final
34 compensation” for the purposes of determining any pension or
35 benefit for service with the California National Guard with respect
36 to a National Guard member means the highest average annual
37 compensation that was earned while rendering service with the
38 California National Guard. The final compensation of a National
39 Guard member under another retirement or pension system shall

1 not apply to the calculation of his or her retirement allowance with
2 respect to service with the California National Guard.

3 SEC. 4. Section 20069 of the Government Code is amended
4 to read:

5 20069. (a) “State service” means service rendered as an
6 employee or officer (employed, appointed, or elected) of the state,
7 the California Institute for Regenerative Medicine and the officers
8 and employees of its governing body, the university, a school
9 employer, or a contracting agency, for compensation, and only
10 while he or she is receiving compensation from that employer
11 therefor, except as provided in Article 4 (commencing with Section
12 20990) of Chapter 11.

13 (b) “State service,” solely for purposes of qualification for
14 benefits and retirement allowances under this system, shall also
15 include service rendered as an officer or employee of a county if
16 the salary for the service constitutes compensation earnable by a
17 member of this system under Section 20638.

18 (c) “State service” shall also include compensated service
19 rendered by an officer, warrant officer, or a person of the enlisted
20 ranks of the California National Guard who has elected to become
21 a member pursuant to Section 20326 and who has not canceled
22 his or her membership pursuant to Section 20327.

23 SEC. 5. Section 20281.5 of the Government Code is amended
24 to read:

25 20281.5. (a) Notwithstanding Section 20281, a person who
26 becomes a state miscellaneous member other than a National Guard
27 member or state industrial member of the system on or after the
28 effective date of this section because the person is first employed
29 by the state and qualifies for membership shall be subject to the
30 provisions of this section.

31 (b) Members subject to this section shall not accrue credit for
32 service in the system and shall not make employee contributions
33 to the system, including the contributions set forth in Section
34 20677.4, for employment with the state until the first day of the
35 first pay period commencing 24 months after becoming a member
36 of the system.

37 (c) Notwithstanding subdivision (a), this section shall not apply
38 to any of the following:

39 (1) Persons who are already members or annuitants of the system
40 at the time they are first employed by the state.

1 (2) Employees of the California State University, or the
2 legislative or judicial branch of state government.

3 (3) Members of the Judges' Retirement System, the Judges'
4 Retirement System II, the Legislators' Retirement System, the
5 State Teachers' Retirement System, or the University of California
6 Retirement Plan.

7 (4) Persons who are members of a reciprocal retirement system
8 and whose employment was subject to a reciprocal retirement
9 system within the six months prior to membership in this system.

10 (5) Persons whose service is not included in the federal system.

11 (6) Persons who are employed by the Department of the
12 California Highway Patrol as students at the department's training
13 school established pursuant to Section 2262 of the Vehicle Code.

14 (7) Persons who had ceased to be members pursuant to Section
15 20340 or 21075.

16 (d) A separation of employment does not alter the 24-month
17 period described by subdivision (b). A member who separates
18 from state employment shall remain subject to this section if he
19 or she returns to state employment as a state miscellaneous or state
20 industrial member within that 24-month period.

21 (e) Any regulations adopted by the board to implement the
22 requirements of this section shall not be subject to the review and
23 approval of the Office of Administrative Law, pursuant to Chapter
24 3.5 (commencing with Section 11340) of Part 1 of Division 3. The
25 regulations shall become effective immediately upon filing with
26 the Secretary of State.

27 SEC. 6. Section 20303 of the Government Code is amended
28 to read:

29 20303. (a) Persons who are members of any other retirement
30 or pension system supported wholly or in part by funds of the
31 United States government, any state government, or any political
32 subdivision thereof and who are receiving credit in the other system
33 for service are, as to that service, excluded from this system.

34 (b) (1) For the purpose of this section only, persons who are
35 receiving pensions, retirement allowances, or other payments, from
36 any source whatever, because of service rendered to an employer
37 other than the state and while they were not in state service, are
38 not, because of that receipt, members of any other retirement or
39 pension system.

(2) For the purposes of this section only, persons who participate in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) or Chapter 8.6 (commencing with Section 19999.3) of Part 2.6 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5, are not, because of that participation, members of any other retirement or pension system.

(3) For the purposes of this section only, persons who participate in a money purchase pension plan and trust that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of any other retirement or pension system, so long as the contracting agency has received a ruling from the Internal Revenue Service stating that the money purchase pension plan and trust qualifies under Section 401(a) and furnishes proof thereof upon request by the board.

(4) For the purposes of this section only, persons who participate in a supplemental defined benefit plan maintained by their employer that meets the requirements of Section 401(a) of Title 26 of the United States Code are not, because of that participation, members of another retirement or pension system, provided that all of the following conditions exist:

(A) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.

(B) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer and, upon request, to the board.

(C) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this part.

(5) For purposes of this section only, a person who elects membership pursuant to Section 20326 is deemed, with respect to service with the California National Guard, not to be a member of any other retirement or pension system.

SEC. 7. Section 20326 is added to the Government Code, to read:

1 20326. (a) Notwithstanding Section 20305, officers, warrant
2 officers, and enlisted personnel of the California National Guard
3 who are not members pursuant to Section 20282 are excluded from
4 membership in this system unless those officers, warrant officers,
5 and enlisted personnel file a written election with the board to
6 become a member.

7 (b) The Military Department shall report to the board any
8 employment and other information requested by the board for
9 purposes of this section.

10 SEC. 8. Section 20327 is added to the Government Code, to
11 read:

12 20327. (a) Notwithstanding any other provision of this part,
13 a National Guard member may, at any time and on a prospective
14 basis, cancel his or her election of membership in this system by
15 filing a written notice of cancellation with the board.

16 (b) If a National Guard member cancels his or her election of
17 membership, that National Guard member shall not be required to
18 pay contributions as described in Section 20772.5, effective as of
19 the date the written notice of cancellation was filed with the board.

20 (c) A National Guard member may only elect to cancel his or
21 her membership pursuant to this section one time.

22 (d) This section shall remain operative until subsequent
23 provisions of law delete the requirement that National Guard
24 members pay the employer contributions as a condition of
25 membership in this system.

26 SEC. 9. Section 20370 of the Government Code is amended
27 to read:

28 20370. (a) “Member” means an employee who has qualified
29 for membership in this system and on whose behalf an employer
30 has become obligated to pay contributions.

31 (b) “State member” includes:

- 32 (1) State miscellaneous members.
- 33 (2) University members.
- 34 (3) Patrol members.
- 35 (4) State safety members.
- 36 (5) State industrial members.
- 37 (6) State peace officer/firefighter members.
- 38 (7) National Guard members as defined in Section 20380.5.

39 (c) “Local member” includes:

- 40 (1) Local miscellaneous members.

1 (2) Local safety members.

2 (d) “School member” includes all employees within the
3 jurisdiction of a school employer, other than local police officers,
4 school safety members and members included in a risk pool.

5 SEC. 10. Section 20371 of the Government Code is amended
6 to read:

7 20371. “Member classification” means either of the following:

8 (a) Miscellaneous member classification, which includes state
9 miscellaneous members, National Guard members, university
10 members, local miscellaneous members, state industrial members,
11 and school members.

12 (b) Safety member classification, which includes patrol
13 members, state peace officer/firefighter members, state safety
14 members, and local safety members.

15 SEC. 11. Section 20380 of the Government Code is amended
16 to read:

17 20380. “State miscellaneous member” includes all members
18 employed by the state and university, except National Guard,
19 industrial, patrol, state peace officer/firefighter, and state safety
20 members.

21 SEC. 12. Section 20380.5 is added to the Government Code,
22 to read:

23 20380.5. “National Guard member” means a person who elects
24 to become a member of this system as described in Section 20326.
25 Except as otherwise provided, the provisions of this part applicable
26 to state miscellaneous members shall apply to National Guard
27 members.

28 SEC. 13. Section 20772.5 is added to the Government Code,
29 to read:

30 20772.5. (a) Notwithstanding any other provision of this part,
31 a National Guard member shall contribute to the retirement fund
32 at the rate applicable to state miscellaneous members and applied
33 to the compensation earned by him or her during the period or
34 periods of contribution. In addition to the normal rate of
35 contribution provided in Section 20677.4, a National Guard
36 member shall also pay the employer contribution, at the rate
37 established in Section 20814, attributable to the service of that
38 member. All contributions described in this section will be
39 deposited in the account of the National Guard member and
40 administered as normal contributions of that member.

1 (b) (1) The Military Department shall notify the member of his
2 or her total rate of contributions and the amount of the monthly
3 contribution payable by him or her to the retirement fund. The
4 member shall transmit his or her contribution with respect to the
5 service described in the notice by the Military Department. The
6 Military Department shall transmit the contributions to the system
7 as described in rules and regulations adopted by the board.

8 (2) If the member fails to pay the contribution within one month
9 after receipt of the notice, the amount of contribution due shall
10 accrue interest, at the rate described in Section 20059, as calculated
11 by the Military Department, with interest to be added to the amount
12 owed for the subsequent month. The system shall not be obligated
13 to attempt to collect any delinquent payments. A member may not
14 be credited with service under this part until the contribution with
15 respect to that service, plus any accrued interest, is paid in full.

16 (c) The Military Department shall periodically furnish to the
17 board a list of the members subject to this section.

18 SEC. 14. Section 20772.6 is added to the Government Code,
19 to read:

20 20772.6. Under conditions established by the board, the system
21 may periodically bill the Military Department for reimbursement
22 of the administrative and program costs of administering the
23 membership and service credit of National Guard members.

24 SEC. 15. Section 20894 of the Government Code is amended
25 to read:

26 20894. (a) A person shall not receive credit for the same
27 service in two retirement systems supported wholly or in part by
28 public funds under any circumstance.

29 (b) Nothing in this section shall preclude concurrent participation
30 and credit for service in a public retirement system and in a
31 deferred compensation plan established pursuant to Chapter 4
32 (commencing with Section 19993) or Chapter 8.6 (commencing
33 with Section 19999.3) of Part 2.6 or pursuant to Article 1.1
34 (commencing with Section 53212) of Chapter 2 of Part 1 of
35 Division 2 of Title 5, a tax-deferred retirement plan that meets the
36 requirements of Section 401(k) of Title 26 of the United States
37 Code, or a money purchase pension plan and trust that meets the
38 requirements of Section 401(a) of Title 26 of the United States
39 Code.

(c) Nothing in this section shall preclude concurrent participation and credit for service in the defined benefit plan provided under this part and in a supplemental defined benefit plan maintained by the employer that meets the requirements of Section 401(a) of Title 26 of the United States Code, provided all of the following conditions exist:

(1) The defined benefit plan provided under this part has been designated as the employer's primary plan for the person.

(2) The supplemental defined benefit plan has received a ruling from the Internal Revenue Service stating that the plan qualifies under Section 401(a) of Title 26 of the United States Code, and has furnished proof thereof to the employer and, upon request, to the board.

(3) The person's participation in the supplemental defined benefit plan does not, in any way, interfere with the person's rights to membership in the defined benefit plan, or any benefit provided, under this part.

(d) For purposes of this section only, a person who elects to purchase service as described in Section 21029.5 for his or her service with the California National Guard is deemed not to receive credit for the same service in two retirement systems supported wholly or in part by public funds.

SEC. 16. Section 20901 of the Government Code is amended to read:

20901. (a) Notwithstanding any other provisions of this part, if the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of, performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to state members, other than school members, if the following conditions exist:

(1) The member meets the service requirements of Section 21060 or 21074 and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify the period. For purposes of this paragraph, the service requirements of Sections 21060 and 21074 shall not include service as a National Guard member or service purchased pursuant to Section 21029.5.

1 (2) The appointing power, as defined in Section 18524, or the
2 Regents of the University of California or the Trustees of the
3 California State University, transmits to the retirement fund an
4 amount determined by the board that is equal to the actuarial
5 equivalent of the difference between the allowance the member
6 receives after the receipt of service credit under this section and
7 the amount the member would have received without that service
8 credit. The transfer to the retirement fund shall be made in a manner
9 and time period acceptable to the employer and the board.

10 (3) The appointing power or the regents or the trustees
11 determines that it is electing to exercise the provisions of this
12 section, pursuant to the Governor's order, and certifies to the
13 Department of Finance and to the Legislative Analyst's Office, as
14 to the specific economies that will be realized were the additional
15 service credit towards retirement granted.

16 (b) As used in this section, "member" means a state employee
17 who is employed in a job classification, department, or other
18 organizational unit designated by the appointing power, as defined
19 in Section 18524, the Regents of the University of California, or
20 the Trustees of the California State University.

21 (c) The amount of service credit shall be two years regardless
22 of credited service, but shall not exceed the number of years
23 intervening between the date of the member's retirement and the
24 date the member would be required to be retired because of age.
25 The appointing power or the regents or the trustees shall make the
26 payment with respect to all eligible employees who retired pursuant
27 to this section.

28 (d) Any member who qualifies under this section, upon
29 subsequent reentry to this system shall forfeit the service credit
30 acquired under this section.

31 (e) This section shall not apply to any member otherwise eligible
32 if the member receives any unemployment insurance payments
33 arising out of employment with an employer subject to this part
34 during a period extending one year beyond the date of issuance of
35 the executive order or if the member is not eligible to retire without
36 the additional credit available under this section.

37 (f) (1) The benefit provided by this section shall not be
38 applicable to the employees of any appointing power or the regents
39 or the trustees until the Director of Finance approves the transmittal
40 of funds by that appointing power or the regents or the trustees to

1 the retirement fund pursuant to ~~subdivision (e)~~ *paragraph (3) of*
2 *subdivision (a)*.

3 (2) The Director of Finance shall approve the transmittal of
4 funds by the appointing power or the regents or the trustees not
5 sooner than 30 days after notification in writing of the necessity
6 therefor to the chairperson of the committee in each house that
7 considers appropriations and the Chairperson of the Joint
8 Legislative Budget Committee, or not sooner than such lesser time
9 as the chairperson of the committee, or his or her designee, may
10 in each instance determine. If there is any written communication
11 between the Director of Finance and the Legislative Analyst, a
12 copy thereof shall be immediately transmitted to the chairperson
13 of each appropriate policy committee.

14 SEC. 17. Section 20963 of the Government Code is amended
15 to read:

16 20963. (a) A state, school, or school safety member, whose
17 effective date of retirement is within four months of separation
18 from employment with the employer subject to this section that
19 granted the sick leave credit, shall be credited at his or her
20 retirement with 0.004 year of service credit for each unused day
21 of sick leave certified to the board by the employer. The
22 certification shall report only those days of unused sick leave that
23 were accrued by the member during the normal course of his or
24 her employment and shall not include any additional days of sick
25 leave reported for the purpose of increasing the member's
26 retirement benefit. Reports of unused days of sick leave shall be
27 subject to audit and retirement benefits may be adjusted where
28 improper reporting is found. For purposes of this subdivision, sick
29 leave shall not include sick leave earned as a National Guard
30 member as described in Section 20380.5.

31 (b) Until receipt of certification from an employer concerning
32 unused sick leave, the board may pay an estimated allowance
33 pursuant to this section. At the time of receipt of the certification,
34 the allowance shall be adjusted to reflect any necessary changes.

35 (c) Notwithstanding any other provisions of this part, this section
36 shall not apply to local members other than local miscellaneous
37 members employed before July 1, 1980, by a school district that
38 is a contracting agency or those school safety members employed
39 before July 1, 1980, by a contracting agency that is a school district

1 or community college district, as defined in subdivision (i) of
2 Section 20057.

3 (d) This section shall not apply to any of the following:

4 (1) A person who becomes a school member on and after July
5 1, 1980, and any person who becomes a local member employed,
6 on and after July 1, 1980, by a school district that is a contracting
7 agency whether or not the person was ever a school member or
8 local member prior to that date.

9 (2) A state employee, with respect to sick leave credits earned
10 as a state member under Section 21353.5, except that the member
11 shall be entitled to receive credit under this section for the sick
12 leave he or she has earned as a state member subject to any other
13 retirement formula, provided the member has a sick leave credit
14 balance remaining at the time of retirement.

15 (e) For the purposes of this section, sick leave benefits provided
16 to state employees pursuant to the state sick leave system shall be
17 construed to mean compensation paid to employees on approved
18 leaves of absence because of sickness.

19 SEC. 18. Section 20966.5 is added to the Government Code,
20 to read:

21 20966.5. For purposes of Sections 20326 and 21029.5, each
22 day of compensated service with the California National Guard or
23 service by a National Guard member authorized by Title 10 of the
24 United State Code shall count as one day of service and shall be
25 credited in each fiscal year based on the ratio that service bears to
26 215 days.

27 SEC. 19. Section 20997 of the Government Code is amended
28 to read:

29 20997. (a) Notwithstanding any other provision of this part,
30 for each member other than a National Guard member absent
31 without compensation due to military service pursuant to Section
32 20990, the employer shall contribute an amount equal to the
33 contributions that would have been made by the employer and the
34 employee during the absence. The employer's contribution pursuant
35 to this section shall be based upon the member's compensation
36 earnable and the contribution rates in effect at the commencement
37 of the absence, if any of the following apply:

38 (1) The member returns to state service within six months after
39 receiving a discharge from military service other than dishonorable.

(2) The member returns to state service within six months after completion of any period of rehabilitation offered by the United States government, except that for purposes of this section, rehabilitation solely for education purposes shall not be considered.

(3) The member is granted a leave of absence from the state employer as of the same date the member was reinstated to that employment from military service, provided that the member returns to state service at the conclusion of the leave.

(4) The member is placed on a state civil service reemployment list within six months after receiving a discharge from military service other than dishonorable and returns to state service upon receipt of an offer of reemployment.

(5) The member retires from this system for service or disability during the course of an absence from state service for military service.

(6) The member dies during the course of an absence from state service for military service.

(b) Any member on leave from state service for military service who elects to continue contributing to this system shall be entitled to a refund of those contributions upon request.

(c) Any member who withdrew contributions during or in contemplation of his or her military service is entitled to the benefits of this section irrespective of whether the contributions are redeposited. The rate for future contributions for the member shall be based upon the member's age at the time the member commenced a leave of absence from state service for service in the military.

(d) The employer's contribution pursuant to this section may be made either in lump sum, or it may be included in its monthly contribution as adjusted by inclusion of the amount due in the employer rate at the valuation most near in time to the event causing the employer's liability for those contributions. The employer's contributions pursuant to this section shall be used solely for the purpose of paying retirement and death benefits and shall not be paid to the member whose contributions are refunded to him or her pursuant to Section 20735.

SEC. 20. Section 21029.5 is added to the Government Code, to read:

21029.5. (a) "Public service" with respect to a state member also means all periods of service rendered as an officer, warrant

1 officer, or a person in the enlisted ranks of the California National
2 Guard prior to electing membership in this system pursuant to
3 Section 20326. “Public service” also means an officer, warrant
4 officer, or a person in the enlisted ranks of the California National
5 Guard rendering service authorized by Title 10 of the United States
6 Code. Public service may not be granted if the service described
7 in this section was terminated by a discharge under other than
8 honorable conditions.

9 (b) A member who elects to purchase service credit for public
10 service under this section shall pay the contributions described in
11 Sections 21050 and 21052.

12 SEC. 21. Section 21052.5 is added to the Government Code,
13 to read:

14 21052.5. A person who is solely a National Guard member or
15 who retires from membership in this system solely as a National
16 Guard member may elect to receive service credit under either of
17 the following:

18 (a) The National Guard member elects to receive service credit
19 pursuant to Section 20750, 20751, 20751.5, or 20753.

20 (b) The National Guard member elects to receive service credit
21 pursuant to a provision that requires the member to pay
22 contributions as described in Sections 21050 and 21052.

23 SEC. 22. Section 21070.7 is added to the Government Code,
24 to read:

25 21070.7. Notwithstanding any other provision of this part,
26 Sections 21076 and 21077 shall not apply to service with the
27 California National Guard or service as a National Guard member
28 regardless of any prior membership status or previous election
29 made.

30 SEC. 23. Section 21076 of the Government Code is amended
31 to read:

32 21076. (a) The service retirement allowance for a state
33 miscellaneous or state industrial member who has elected the
34 benefits of this section is a pension equal to the fraction of
35 one-hundredth of the member’s final compensation set forth
36 opposite the member’s age at retirement, taken to the preceding
37 completed quarter year in the following table, multiplied by the
38 member’s number of years of state miscellaneous service:

1	Age at	
2	Retirement	Fraction
3	50	.5000
4	50 $\frac{1}{4}$	.5125
5	50 $\frac{1}{2}$	.5250
6	50 $\frac{3}{4}$	.5375
7	51	.5500
8	51 $\frac{1}{4}$	.5625
9	51 $\frac{1}{2}$	.5750
10	51 $\frac{3}{4}$	.5875
11	52	.6000
12	52 $\frac{1}{4}$	.6125
13	52 $\frac{1}{2}$	.6250
14	52 $\frac{3}{4}$	.6375
15	53	.6500
16	53 $\frac{1}{4}$	.6625
17	53 $\frac{1}{2}$	.6750
18	53 $\frac{3}{4}$	.6875
19	54	.7000
20	54 $\frac{1}{4}$	.7125
21	54 $\frac{1}{2}$	.7250
22	54 $\frac{3}{4}$	.7375
23	55	.7500
24	55 $\frac{1}{4}$	.7625
25	55 $\frac{1}{2}$	.7750
26	55 $\frac{3}{4}$	.7875
27	56	.8000
28	56 $\frac{1}{4}$	.8125
29	56 $\frac{1}{2}$	.8250
30	56 $\frac{3}{4}$	.8375
31	57	.8500
32	57 $\frac{1}{4}$	.8625
33	57 $\frac{1}{2}$	.8750
34	57 $\frac{3}{4}$	.8875
35	58	.9000
36	58 $\frac{1}{4}$	.9125
37	58 $\frac{1}{2}$	.9250
38	58 $\frac{3}{4}$	.9375
39	59	.9500
40	59 $\frac{1}{4}$	.9625

	Age at Retirement	Fraction
1		
2		
3	59 $\frac{1}{2}$	.9750
4	59 $\frac{3}{4}$	.9875
5	60	1.0000
6	60 $\frac{1}{4}$	1.0125
7	60 $\frac{1}{2}$	1.0250
8	60 $\frac{3}{4}$	1.0375
9	61	1.0500
10	61 $\frac{1}{4}$	1.0625
11	61 $\frac{1}{2}$	1.0750
12	61 $\frac{3}{4}$	1.0875
13	62	1.1000
14	62 $\frac{1}{4}$	1.1125
15	62 $\frac{1}{2}$	1.1250
16	62 $\frac{3}{4}$	1.1375
17	63	1.1500
18	63 $\frac{1}{4}$	1.1625
19	63 $\frac{1}{2}$	1.1750
20	63 $\frac{3}{4}$	1.1875
21	64	1.2000
22	64 $\frac{1}{4}$	1.2125
23	64 $\frac{1}{2}$	1.2250
24	64 $\frac{3}{4}$	1.2375
25	65	1.2500

26

27 (b) This section shall not apply to a National Guard member.

28 SEC. 24. Section 21077 of the Government Code is amended

29 to read:

30 21077. (a) The service retirement allowance for a state

31 miscellaneous or state industrial member who elects to be subject

32 to this section shall be: the sum of the allowance for service

33 rendered under the Second Tier retirement formula, computed

34 pursuant to Section 21076, added to the allowance for service

35 rendered as a state miscellaneous or state industrial member

36 covered under the First Tier formula, computed pursuant to Section

37 21353 or 21354.1, as applicable.

38 (b) This section shall not apply to a National Guard member.

39 SEC. 25. Section 21117.5 is added to the Government Code,

40 to read:

1 21117.5. Notwithstanding any other provision of law, a person
2 who is solely a National Guard member shall not be partially retired
3 for service, nor shall service with the California National Guard
4 be used to qualify for benefits as described in Section 21117.

5 SEC. 26. Section 22760 of the Government Code is amended
6 to read:

7 22760. "Annuitant" means:

8 (a) A person, other than a National Guard member defined in
9 Section 20380.5, who has retired within 120 days of separation
10 from employment and who receives a retirement allowance under
11 any state or University of California retirement system to which
12 the state was a contributing party.

13 (b) A surviving family member receiving an allowance in place
14 of an annuitant who has retired as provided in subdivision (a), or
15 as the survivor of a deceased employee under Section 21541,
16 21546, 21547, or 21547.7, or similar provisions of any other state
17 retirement system.

18 (c) A person who has retired within 120 days of separation from
19 employment with a contracting agency as defined in Section 22768
20 and who receives a retirement allowance from the retirement
21 system provided by the employer, or a surviving family member
22 who receives the retirement allowance in place of the deceased.

23 (d) A judge who receives the benefits provided by subdivision
24 (e) of Section 75522.

25 (e) A person who was a state member for 30 years or more and
26 who, at the time of retirement, was a local member employed by
27 a contracting agency.

28 (f) A Member of the Legislature or an elective officer of the
29 state whose office is provided by the California Constitution, who
30 has at least eight years of credited service, and who meets the
31 following conditions:

32 (1) Permanently separates from state service on or after January
33 1, 1988, and not more than 10 years before or 10 years after his
34 or her minimum age for service retirement, or is an inactive
35 member of the Legislators' Retirement System pursuant to Section
36 9355.2.

37 (2) Receives a retirement allowance under a state retirement
38 system supported in whole or in part by state funds other than the
39 University of California Retirement System.

1 (g) An exempt employee who meets all of the following
2 conditions:

3 (1) Has at least 10 years of credited state service that includes
4 at least two years of credited service while an exempt employee.

5 (2) Permanently separates from state service on or after January
6 1, 1988, and not more than 10 years before or 10 years after his
7 or her minimum age for service retirement.

8 (3) Receives a retirement allowance under a state retirement
9 system supported in whole or in part by state funds other than the
10 University of California Retirement System.

11 (h) A person receiving a survivor allowance pursuant to Article
12 3 (commencing with Section 21570) of Chapter 14 of Part 3
13 provided that he or she was eligible to enroll in a health benefit
14 plan on the date of the member's death, on whose account the
15 survivor allowance is payable.

16 (i) (1) A family member of a deceased retired member of the
17 State Teachers' Retirement Plan, if the deceased member meets
18 the following conditions:

19 (A) Retired within 120 days of separation from employment.

20 (B) Retired before the member's school employer elected to
21 contract for health benefit coverage under this part.

22 (C) Prior to his or her death, received a retirement allowance
23 that did not provide for a survivor allowance to family members.

24 (2) The family member shall elect coverage as an annuitant
25 within one calendar year from the date that the deceased member's
26 school employer elected to contract for health benefit coverage
27 under this part.

28 SEC. 27. Section 22772 of the Government Code is amended
29 to read:

30 22772. (a) "Employee" means:

31 (1) An officer or employee of the state or of any agency,
32 department, authority, or instrumentality of the state, including
33 the University of California.

34 (2) An employee who is employed by a contracting agency,
35 including, but not limited to, an officer or official of a contracting
36 agency if the officer or official participates in the retirement system
37 provided by the employer.

38 (3) An annuitant receiving a retirement allowance pursuant to
39 Section 21228 who is employed by a contracting agency.

(4) A teaching associate, lecturer, coach, or interpreter employed by the California State University who is appointed to work in an academic year classification for at least six weighted teaching units for one semester, or for at least six weighted teaching units for two or more consecutive quarter terms. This paragraph does not apply to a state member employed by the California State University, unless provided for in a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 or authorized by the Trustees of the California State University for employees excluded from collective bargaining.

(5) All employees in job classes specified in subdivision (a) of Section 14876.

(b) Except as otherwise provided by this part, “employee” does not include any of the following:

(1) A person employed on an intermittent, irregular, or less than half-time basis, or an employee similarly situated.

(2) A National Guard member described in Section 20380.5.

SEC. 28. Section 31649.6 is added to the Government Code, to read:

31649.6. (a) Notwithstanding Section 31649 or 31649.5, a member who resigned from county service, or who obtained a leave of absence from county service, to enter and did enter the Armed Forces of the United States on a voluntary or involuntary basis and who then returned to county service within one year after separation from the Armed Forces under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section 31461 at the time he or she resigned or obtained the leave of absence, together with regular interest thereon.

(b) This section shall not be operative in any county until the board of supervisors, by resolution, makes this section applicable in the county.

SEC. 29. Section 215 of the Military and Veterans Code is amended to read:

215. For all purposes under this code, commissioned officers, warrant officers and enlisted men and women of the California National Guard, California Air National Guard, and California

1 National Guard Reserve who have heretofore or hereafter
2 performed service in the United States Army, United States Air
3 Force, United States Navy, or a reserve component thereof shall
4 be entitled to credit for time so served as if that service had been
5 rendered in the state forces. Service in the state forces shall include
6 all full-time active duty and part-time duty performed heretofore
7 or hereafter either as an enlisted man or woman, warrant officer
8 or commissioned officer pursuant to any prior or present section
9 or sections or provisions of this code. Federal law notwithstanding,
10 in computing state service for retirement with pay under this
11 authority, full-time active service and part-time duty or service
12 with the Armed Forces of the United States or any reserve
13 component thereof shall be considered.

14 SEC. 30. Section 228 of the Military and Veterans Code is
15 amended to read:

16 228. (a) A commissioned or warrant officer of the California
17 National Guard who has served 20 years in the active service of
18 the state may, on application, in the discretion of the Governor,
19 be retired. Service in the United States Army, United States Air
20 Force, United States Navy, or any reserve component thereof is
21 considered state service in computing length of state service for
22 the purposes of this section.

23 (b) Upon application made within one year of retirement, the
24 officer may, in the discretion of the Governor, be granted an
25 honorary advancement to the next grade above that held on the
26 date of application for retirement. The Adjutant General shall adopt
27 regulations governing the application procedure, qualifications
28 required, and rights and privileges in connection with honorary
29 post-retirement promotions under this subdivision. If recalled to
30 either state or federal active service, a person honorarily promoted
31 under this subdivision shall return to duty in that grade specified
32 by federal law or regulations applicable to the person.

33 (c) Commissioned and warrant officers on active duty with the
34 office of the Adjutant General pursuant to Section 167 who are
35 not members of the Public Employees' Retirement System and
36 who have been on active duty with the office of the Adjutant
37 General for a total of 10 years shall, on application, be retired in
38 accordance with the federal law and regulations which on the date
39 of application govern the retirement of commissioned and warrant
40 officers of the reserve components of the Army of the United States

1 on extended active duty. Retirement from state active duty with
2 the office of the Adjutant General does not prohibit a person from
3 active service in the California National Guard. In these cases, the
4 length of service shall be computed as provided in this section and
5 Section 215.

6 SEC. 31. Section 256 of the Military and Veterans Code is
7 amended to read:

8 256. (a) An enlisted member of the California National Guard
9 who has served 20 years in the active service of the state may, on
10 application, in the discretion of the Governor, be retired. Service
11 in the United States Army, United States Air Force, United States
12 Navy, or any reserve component thereof shall be considered as
13 state service in computing length of state service for the purposes
14 of this section.

15 (b) Upon application made within one year of retirement, the
16 person may, in the discretion of the Governor, be granted an
17 honorary advancement to the next rank above that held on the date
18 of application for retirement. The Adjutant General shall adopt
19 regulations governing the application procedure, qualifications
20 required, and rights and privileges in connection with honorary
21 post-retirement promotions. If recalled to either state or federal
22 active service, a person honorarily promoted under this subdivision
23 shall return to duty in that rank specified by federal law or
24 regulations applicable to the person.

25 (c) An enlisted member on active duty with the office of the
26 Adjutant General pursuant to Section 167 who is not a member of
27 the Public Employees' Retirement System and who has been on
28 active duty with the office of the Adjutant General for a total of
29 10 years shall, on application, be retired in accordance with the
30 federal law and regulations which on the date of application govern
31 the retirement of enlisted members of the reserve components of
32 the Army of the United States on extended active duty. In these
33 cases, the length of service shall be computed as provided in this
34 section and Section 215.